

IN RE: PUBLIC HEARING TO CONSIDER THE PROPOSED CLOSURE OF THE WILLIAMS MULTIPLEX ELEMENTARY SCHOOL AND THE WILLIAMS PREPARATORY ACADEMY MIDDLE SCHOOL AND THE RELOCATION OF THE DRAKE ELEMENTARY SCHOOL TO CO-LOCATE WITH THE URBAN PREP ACADEMY FOR YOUNG MEN-BRONZEVILLE

HEARING OFFICER'S REPORT AND DETERMINATION

This matter came on for hearing before Patrick E. McGann, the duly designated hearing officer, on April 26, 2013 at 5:30 P.M. at the Central Office of the Chicago Public Schools, 125 S. Clark, Chicago, Illinois.

As will hopefully demonstrated by this Report and Determination, the Chief Executive Officer's proposals to close the Williams Multiplex Elementary School ("Williams Elementary") and the Williams Preparatory Academy Middle School ("Williams Middle") and the re-location of the Drake Elementary School (Drake" school) to co-locate with the Urban Prep Academy for Young Men-Bronzeville ("Urban Prep") are based essentially upon factors that are non-academic in nature. It is not the role of the hearing officer to substitute his or her judgment for that of school authorities in their decision to propose a "school action." Rather, the hearing officer is limited to making a determination as to whether school officials complied with State law and CPS rules, standards, and regulations that limit their discretion in this area.

I. LEGAL REQUIREMENTS

Among the several powers of the Board of Education ("Board") is to establish and maintain schools, as well as, allocate students among those schools. These powers include creating a policy, that among other things, allows for the closing of existing schools. (105 ILCS 5/34-18 ¶ 1, 7, 24).

The Legislature has required the Board of Education to establish space utilization plans and an educational facility master plan. (105 ILCS 5/34-200 et seq.)¹ These statutory requirements anticipate that the Board of Education, in the exercise of its authority, may take what is identified as a "school action". That term is defined as a school closing;

¹ The Educational Facility Master Plan is required to be published on or before October 1, 2013.

school consolidation, co-location, or a boundary change that requires relocation of students. 105 ILCS 5/34-200.

If the Board is asked to take a school action that will take place at the end of the 2012-2013 school year, the Chief Executive Officer ("CEO") must announce and publish notice of such proposed school actions on or before March 31, 2013. The CEO must also provide notice of such proposed action at least 15 days in advance of a public meeting or hearing. (105 ILCS 5/34-232).

The Legislature has also required the CEO of the Board to establish and publish guidelines that outline the criteria for either an academic or non-academic school action. (105 ILCS 5/34-230). This must be done no later than November 1 of the year preceding the announcement of the proposed school action.

If a CEO is proposing a school action, he or she must provide notice to the principal, staff, local school council, parents or guardians of students, the State Senator, State Representative and Alderman of whose District or Ward contains the affected school. The notice must also be posted on the District website and in a newspaper of general circulation.

The notice must contain a written statement setting forth the basis for the school action, an explanation as to how it meets the guidelines, as well as, a draft transition plan. (105 ILCS 5/34-230). The school transition plan must include services to support the academic, emotional and social needs of the students. This includes students with disabilities, that are homeless, and English language learners. The security and safety issues that arise because of the proposed school action must also be addressed. Each student shall have the option to enroll in a higher performing school. In order to make this promise realistic, the plan must provide access to information about such schools to the parent or guardian of the student. (105 ILCS 5/34-225).

Finally, the CEO must provide for not less than three opportunities for public comment. At least one shall be a public hearing at the central office of the Board. The other two, either public hearings or meetings, must be at a location convenient to the school community. Notice of the dates and locations of these meetings or hearings must be contained in the required notices discussed above. (105 ILCS 5/34-230).

II. Findings of Fact

The public hearing commenced with a presentation by the CEO. This involved proofs by documentary and testimonial evidence.

The Exhibits received in evidence establish that in December 2011, The CEO established Space Utilization Standards ("Standards") in order to comply with the State mandates. (Exhibit 14). That policy, among other matters, set a maximum capacity for each facility housing a grammar school as the number of classrooms in the school building multiplied by 30. The document also established an Enrollment Efficiency Range for elementary schools.

Under that criteria, an ideal enrollment for an elementary school would be the number of classrooms in the school building times a factor of .769. This yields the number of classrooms designated as homerooms. The remaining classrooms are designated as "ancillary" classrooms. The ideal program enrollment for an elementary school, as defined by Standards is the number of homerooms multiplied by a factor of 30. The "enrollment efficiency range" for an elementary school is a number of enrolled students that is from 80% to 120% of the ideal program enrollment calculation. A school that has an enrollment of less than 80% of the ideal program enrollment is underutilized. If the enrollment exceeds 120%, the school is overcrowded. Student enrollment is determined as of the 20th day of attendance for the school year.

Kate Selden, ²Paralegal for the Legal Assistance Eoundation, submitted a public comment that, *inter alia*, that the Utilization Standards adopted by the CEO are in conflict with State law. She asserts that pursuant to the Illinois School Code, Administrative Regulations have been adopted requiring that the capacity of a school classroom is limited to between 5 and 15 students when a certain portion of their instruction comes within the rubric of special education. 23 Ill. Adm. Code 227.730.

It must be understood that a Hearing Officer's authority is limited to a determination of whether the CEO has complied with the requirements of 105 ILCS 5/34-230 and the CEO's Guidelines for School Actions (Exhibit 16). Thus, it is beyond the scope of the hearing to make inquiry into the legality of the Utilization Standards. This

² Ms. Selden appeared at the public hearing but chose not to speak. This was clearly her right. This is noted because it may have been helpful the Hearing Officer by entertaining the CEO's response to her positions.

may well be an area of concern to the Board of Education in considering the CEO's proposed action in this matter, in light of the testimony of Cynthia Allen. At the public meeting on April 10, 2013, Ms. Allen, a special education teacher at Williams Middle, testified 27% or 34 students at this school receive special education programs. These children are currently in classrooms with enrollments of 11 or 12 students.

For "completely departmentalized" high schools a different methodology is employed. Under this rubric, the number of available classrooms is multiplied by a factor of 30. This results in the maximum capacity of that school. The ideal enrollment for that high school is 80% of its maximum capacity. The enrollment efficiency range is then plus or minus 20% of the ideal enrollment figure.

These Standards also have application to proposed co-location of schools. In such situations the capacity of the building is determined. This capacity is then apportioned between the schools in proportion to their respective enrollments. The example given identifies two schools, one with an enrollment of 600, the other 300. The building has 50 classrooms. The larger enrollment school would be assigned 33 classrooms. The smaller would have access to 17 classrooms. The ideal and educationally efficient enrollment is then determined under the normal formula.

CPS has also established a Shared Facility Policy (Exhibit 13). While this policy generally applies to sharing of space among two or more CPS schools, Section VII D has specific application to charter schools such as Urban Prep-Bronzeville. This requires a charter school sharing space with a CPS school to enter into a lease agreement with the Board of Education. No such lease was presented at the public hearing. This would appear to be critical as the charter school agreement between the Board of Education and Urban Prep continues into 2015 (Exhibit 17).

This creates an uncertainty due to the representations made during the Public Hearing on this matter. When the Hearing Officer asked about current space allocations at the 2710 S. Dearborn property, CPS staff stated that the shared space agreement was with the Williams Middle school and had terminated. While, the staff may have been referring to Section VI of Exhibit 13, it would appear that the terms of a lease for space at the 2710 S. Dearborn property would affect the determination of available capacities for the proposed co-location. This will be discussed further below.

The CEO has also established, as required by 105 ILCS 5/34-232, Guidelines for School Actions for the 2012-2013 School Year (“Guidelines”). Relevant to the proposed action, is the policy to consider closure for any school with an enrollment less than 80% of the ideal program enrollment for the facility that houses the school. If that were the enrollment figure, the school is underutilized as defined by the 2011 Utilization Standards. These Guidelines also define a closing or closure of a school means closing a school and assigning all of the students enrolled to one or more receiving schools.

In addition to the size of a school’s enrollment capacity, the Guidelines state that the CEO may consider safety and security, school culture and climate, school leadership, quality of the school facility, school type and programming, family and community feedback received throughout the year, transition planning costs, neighborhood development plans, any recent school actions affecting the school, changes in academic focus, remediation or probation status, or proximity, capacity and performance of other schools in the community.

It is important to understand the by use of the term “may consider,” it is left to the CEO’s discretion whether to consider such information and to determine what, if any, impact such information will have on the decision to propose a school action.

The established Guidelines limit the CEO’s ability to propose a school closure unless the affected students have the option to enroll in a higher performing school and the resulting space utilization at the receiving school will not be exceeded the December 2011 Utilization Standards.

Exhibit 1 consists of Notices proposing the closure of the Williams Multiplex Elementary School (“Williams Elementary”) and the Williams Preparatory Academy Middle School (“Williams Middle”) and the re-location of the Drake Elementary School (Drake” school) to co-locate with the Urban Prep Academy for Young Men-Bronzeville (“Urban Prep”) dated March 21, 2013, as well as a Draft Transition Plan for the proposed school actions. These were addressed to the parent or guardian of students all of the affected schools. Each of the three Notices and Draft Transition Plans contained information tailored to notify the recipients of the actions that would affect their child(ren). The notices also contain information to assist a parent in identifying and

enrolling their child in a school with a higher performance rating than either Williams Elementary or Williams Middle.

There appears to be one major change in the proposal outlined in the Notice sent on March 21 and the one discussed at the two public meetings and the public hearing. The genesis of this difference is not reflected in either the record of the public hearing or either public meeting. Alderman Dowell and other speakers were assured at the public meetings that the CEO now plans to re-locate all Williams Elementary, Williams Middle and Drake students to the 2710 S. Dearborn location. The 2722 S. King Drive Drake campus will now be closed. The original proposal called for the “newly constituted” Drake to operate on two campuses. The incoming freshmen class of Urban Prep will occupy that building.

There is no record that Notice of this change in proposed school action was never sent to the affected parents, guardians, public officials or the Directors of Urban Prep. If this is truly the CEO’s proposal, the Notice does not appear to comply with the requirements of 105 ILCS 5/34-230. As such, the Board may not approve this proposal.

The Hearing Officer acknowledges that under the broadest reading, the CEO’s “new” proposal comes within the definition of closure under the 2012-13 Guidelines for School Actions. One could then take the position that any deficiency in the Notice was harmless. However, if that were to be accepted none of the affected parties from Drake would be aware that their current school building was closing. These individuals would then be unable to voice their opinions at any of the three opportunities provided by the Legislature. If opportunity for public comment is anything more than a “cooling off” exercise, the Notice requirement must be strictly enforced. It is interesting to note that no person connected with Drake appeared at any public forum.

Exhibit 2 contains a similar Notice and a copy of the Draft Transition Plan addressed to the Administrators, faculty and staff of each of the affected schools. A close examination of these notices and the accompanying draft transition plan confirm that they comply with the statutory requirements set out above.

Ms. Selden posits that this draft transition plan is “boilerplate” document used in all of the proposed school actions for the coming academic year. Assuming arguendo, she is correct, this is an understandable approach by the CEO. The statute requires the draft

plan to address certain areas of concern identified by the Legislature. Obviously. A final plan, which will be subject to public input, cannot be created until the Board accepts or rejects the CEO's proposal. The Hearing Officer finds that there is no default in the approach adopted by the CEO. This finding is consistent with the dictates of 105 ILCS 5/34-225.

Exhibits 3 and 4, to which no member of the public raised objection, establishes the timely delivery of the required notices of the original to all persons including elected officials entitled to notice under the statute. Exhibit 6 establishes the required publication of the originally proposed school action in the Sun Times, a newspaper of general circulation. The required posting on the CPS website is established by Exhibit 5.

The CEO also introduced a verbatim transcript of the public meetings on this proposal. They were held at the Dunbar Vocational Career Academy on April 10 and 15, 2013. (Exhibits I8 and 20). A review of those transcripts yield that many of the presenters at those meetings also appeared at the public hearing.

The CEO also introduced the oral and written reports of Ashley Richardson, Portfolio Planner for the Chicago Public Schools. She stated that the CEO had three proposed school actions. They are 1) the closure of the Williams Multiplex Elementary School 2) the closure of the Williams Preparatory Academy Middle School and 3) the relocation of the Drake Elementary School to co-locate with the Urban Prep Academy for Young Men-Bronzeville. Ms. Richardson never mentioned that it was the CEO's proposal to continue to operate the 2722 S. King Drive Facility as a campus for Drake.

She stated that the enrollment at Williams Elementary for the 2012-2013 academic year was 256 students. They are enrolled in pre-K, Kindergarten and Grades 1 through 5. Williams Middle currently enrolls 127 students in Grades 6 through 8.

These schools operate at a CPS facility located at 2710 S. Dearborn Street. These schools currently share that facility with Urban Prep. There are 55 classrooms in this building. Williams Elementary has access to 17.5 classrooms or 13 homerooms. This establishes an ideal enrollment of 390. Based upon that enrollment, Williams Elementary would be a school classified as underutilizing its facility under the 2011 Standards.

Williams Middle has access to 11.5 classrooms or 8 homerooms. Using the established formula the ideal enrollment would be 240 students. As only 127 students attend Williams Middle school, the school also underutilizes its facility.

Drake school is currently located at 2722 S. Martin Luther King, Jr. Drive. This school currently enrolls 242 students enrolled in classes from pre-K through 8th grade. This building will be closed under the CEO's proposed school action. If these students join the already enrolled students at the two Williams schools, Ms. Richardson anticipates the enrollment to be 625. This estimate is based upon a consistent enrollment trend dating back at least five years.

Ms. Richardson states that CPS intends to allocate 27 classrooms to Drake school and 28 to Urban Prep. Based upon this proposed allocation the ideal enrollment for the new Drake school, Urban Prep and the 2710 S. Dearborn Building based on the 2011 Standards³ would be:

- A) Drake Homerooms 21 (.769x27);
- B) Ideal Enrollment 630 (21x30);
- C) Education Efficiency Enrollment Range 504-756 (80-120% of 630);
- D) Urban Prep Maximum Capacity 840 (27x30);
- E) Ideal Enrollment 672 (80% of 840);
- F) Education Efficiency Range 537-806 (80-120% of 672);
- G) 2710 S. Dearborn Ideal Capacity 1302.

Under the formulae set by the 2011 Standards the space in the 2710 S. Dearborn building occupied by Williams Elementary and Williams Middle is underutilized. The addition of the Drake enrollment would create a student body whose enrollment is well within the Education Efficiency Range established by the 2011 standards. The proposed co-location of the newly constituted Drake with Urban Prep would fall well within the 2011 Utilization Standards established by the CEO.

The CPS also introduced the oral and written statements of John Price, Chief of Schools for the Burnham Park Elementary Network. The focus of his presentation was on the academic differences between the affected CPS schools. He also touched on the resources that will be made available to support the educational and emotional needs of

³ Exhibit 14 pp. 2-6. The co-location standard also supports the proposed classroom allocation.

the transferring students. Finally, she set out the CPS efforts to provide a safe environment for the Williams and Drake students.

The documents introduced to support his presentation indicate all three schools, Williams Elementary, Williams Middle and Drake, schools are on a probationary status and have been for the past three years. Each school has a Performance Policy Rating of Level 3. Williams Middle and Drake have both received this ranking for each of the past three academic years. Williams Elementary outperformed those schools in the 2011-2012 school year and achieved a Level 2 Rating. Unfortunately, this performance was not repeated in this year's rating as it replicated its 2010 Level 2 ranking achieving almost identical ISAT Composite scores of less than 61%. However, a close look at the overall rankings of these schools for the past three years yield very little difference in the quality of performance outcomes for each school. Actually, the overall performance of Drake has declined in each of the past three years.

The main distinction is in the value added component of the metric. This measures the impact of the school on the average student in relation to other schools in the District. This allows CPS to identify schools where the growth of learning is not adequately measured by test scores. This measurement establishes that attendance at Drake will have a more positive impact on students than attendance at either of the other two schools.

A number of presenters disputed Mr. Price's conclusions suggesting that he was selective in choosing his data. They brought forward results of the ISBE report card that establishes that Williams outperformed Drake and the Burnham Park Network in 4 of the past 5 years. They also introduced data showing that Williams outperformed every school in its network in the NWEA measurements in the fall of 2012 and winter 2013.

Not in the sense of defending Mr. Price, but rather explanation, The Board made its choice of the metrics used to measure school performance. Exhibit 12 establishes the criteria to be used. A close reading of that Exhibit shows that Mr. Price followed the CPS' policy in this area.

There is nothing in either the record of the public hearing or the two public meeting that undermine the CEO's determination that Drake is the higher performing school as defined by the metric chosen by the Board.

Mr. Price also pointed to the draft Transition Plan that, as required, considers the academic and emotional needs of the students. There will be additional support for children who have specific needs. These include those with diverse learning needs, those in temporary living situations, and English language learners. There is also a separate plan for students participating in early childhood programs.

Mr. Price stated that the CPS Office of Safety and Security has communicated with the Chicago Police Department and other agencies to address safety concerns arising from the closing of the Drake facility and the transfer of those students to the 2710 S. Dearborn building. He was quite candid in stating that such plans cannot be definitively articulated until the Board acts on the CEO's proposals. The point of her awareness of and sensitivity to these issues was clearly made.

Finally, the CEO introduced the oral and written statements of Cory Davis, Director of Capital Renovation and New Construction for CPS. He spoke of a proposed allocation of space within the facility. Essentially, Drake students would use classrooms on the first and a large portion of the second floor. Urban Prep would occupy the third floor and the remaining portion of the second floor. This allocation would be consistent with the 27/28 configuration suggested by Ms. Richardson. The administrative offices for each school would be at opposite ends of the building. A new lunchroom for Urban Prep students would be constructed on the basement floor. This would eliminate the current shared lunchroom arrangement that currently exists in the building. The library, gymnasium, auditorium and weight room would be shared space.

This proposal will only be possible if it is consistent with the current lease rights of Urban Prep. Another alternative is the negotiation of a new or amended lease with that entity. Neither of these alternatives was discussed during this hearing.

A significant number of community members representing all constituencies affected by the CEO's proposed school actions appeared and made oral and written presentations at the public hearing and the two public meetings. The predominant sense of the community is that Drake should be consolidated with Williams. The Williams community believes that the existing Williams' faculty and administration should remain in place due to their experience with the children and the history of achievement over the past several years.

A number of witnesses at the public meetings and in written submissions shared their concerns about the effect the proposed changes will have on children with special needs. They believe the significant improvement made by these children is directly related to the teacher-student relationships. Cynthia Anderson stated in the most recent school report card 87.1% of Williams students with special needs achieved the expected gains on the ScanTron test. This compares, she stated, with the national average of 50%. She also noted that the same report card for Drake omits these results.

Additionally, Alderman Dowell and a significant number of submissions point to the school name as being of great significance. Daniel Hale Williams was an important person in African-American history. His life, they believe, could serve as a significant example for the students attending the school. Indeed, the Alderman asked for assurance that the community could address the name of the school in the future.

Lillian Allen, a Williams Middle parent, appeared to testify and submitted a letter. She spoke of the expansive curriculum at Williams that includes Mandarin Chinese, as well as, the significant resources available at the 2710 Building. As the proposed school action has been modified to have all students of the reconstituted Drake use the 2710 building, it is reasonable to assume that the physical improvements and laboratory facilities will remain available to these students.

Lakia Belmont and others disputed the CEO's position that Drake is a better performing school. These witnesses attributed the one year in the last five where the test results were poor to the disruptive effect of construction during much of the school year. Especially disruptive was the roof work that caused the building to be contaminated by the constant smell of hot asphalt. This was the sentiment shared by the one student who appeared at the public hearing.

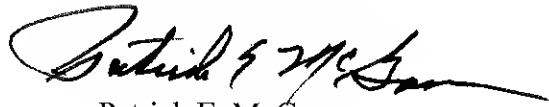
David Moore, former candidate for Alderman of the 17th Ward, stated his belief that these proposed school actions is another step toward the privatization of education. This is illustrated by the sudden focus on underutilization of school facilities. This change was made, he believes, to keep the public from understanding that charter schools are underperforming. Oscar Young shared his sentiments.

III. CONCLUSION

The Hearing Officer concludes that this record establishes that the CEO has failed to comply with the applicable statutes, rules, standards and regulations relating to the closure of the Williams Multiplex Elementary School and the Williams Preparatory Academy Middle School and the re-location of the Drake Elementary School to co-locate with the Urban Prep Academy for Young Men-Bronzeville. This defalcation is caused by the CEO's failure to establish that notice of her amended proposal to close the King Drive campus of Drake school and re-locate it to the 2710 S. Dearborn Campus was never given as required by 105 ILCS 5/34-230.

May 3, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick E. McGann", with a stylized flourish extending to the right.

Patrick E. McGann

Hearing Officer